

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL ARMENDARIZ,

Petitioner,

v.

No. CV 18-1144 WJ/CG

STANLEY MOYA, et al.,

Respondents.

ORDER DENYING MOTIONS FOR APPOINTMENT OF COUNSEL

THIS MATTER is before the Court on Petitioner's Motions for Appointment of Counsel, (Docs. 3, 16, 17), filed December 7, 2018, April 24, 2019, and April 25, 2019. Having considered the motions, record of the case, and relevant law, the Court will deny the Motions for Appointment of Counsel at this time.

Petitioner asks the Court to appoint him counsel to help him address the issues raised in his Petition. (Docs. 3, 16, 17). The decision to appoint an attorney in a habeas corpus case arising under 28 U.S.C. § 2254 generally falls within the Court's discretion unless an evidentiary hearing is necessary, in which case appointment of counsel is mandatory. *Swazo v. Wyo. Dept. of Corr. State Penitentiary Warden*, 23 F.3d 332, 333 (10th Cir. 1994); Rule 8, Rules Governing Section 2254 Cases. "In determining whether to appoint counsel, the district court should consider a variety of factors, including the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991). Petitioner's burden is "to convince the court that there is sufficient merit to his claim to warrant the

appointment of counsel.” *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) (quoting *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985)).

The Court has reviewed the Petition and subsequent filings in light of the foregoing factors. The case does not appear to present novel or complex issues. Further, Petitioner appears to understand the issues in the case and to be representing himself in an intelligent and capable manner. Accordingly, the Court will deny Petitioner’s Motions for Appointment of Counsel at this time.

IT IS THEREFORE ORDERED that Petitioner’s Motions for Appointment of Counsel, (Docs. 3, 16, 17) are **DENIED without prejudice**.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE